

D.T.E. 01-104

Petition of Massachusetts Electric Company, Nantucket Electric Company, New England Hydro-Transmission Electric Company and New England Power Company for Approval of Proposed Changes to the National Grid USA Money Pool under Massachusetts General Laws c. 164, § 17A.

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FOR: Massachusetts Electric Company, Nantucket
Electric Company, New England Hydro-
Transmission Electric Company and New
England Power Company
Petitioners

I. INTRODUCTION

On December 4, 2001, pursuant to G.L. c. 164, § 17A, Massachusetts Electric Company, Nantucket Electric Company, New England Hydro-Transmission Electric Company and New England Power Company (collectively “Companies” or “Petitioners”) filed a petition with the Department of Telecommunications and Energy (“Department”) for approval of proposed changes to the National Grid USA Money Pool (“Money Pool”).

Pursuant to notice duly issued, a public and evidentiary hearing was held at the offices of the Department on February 6, 2002. No petitions to intervene were filed. In support of the petition, the Companies sponsored the testimony of Nancy Kellogg, Manager of Treasury Services for National Grid USA Service Company, Inc. (“National Grid Service”).¹ The evidentiary record consists of seven Department exhibits and seven National Grid exhibits.

II. THE COMPANIES’ PROPOSAL

The Companies seek approval of the Money Pool to replace an existing money pool arrangement that the Department originally approved in D.P.U. 589 (1981) and D.P.U. 589-A (1982), and most recently amended in D.T.E. 99-47 (2000) (Exh. Company-1, at 9). The Companies seek authorization to (1) add Niagara Mohawk Power Corporation (“Niagara”) as a lender and borrower from the National Grid USA Money Pool; (2) change the terms of the Money Pool to clarify certain terms; and (3) obtain approval for the participation, as lenders only, of all current and future subsidiaries of National Grid USA in the Money Pool (id. at 3).

¹ National Grid Service is a wholly-owned indirect subsidiary of the National Grid Group plc. that provides legal, engineering, and other professional services for the utility subsidiaries of National Grid USA (Exh. Company-1, at 1).

The overall objective of the Money Pool is to meet the short-term borrowing requirements of the pool participants in a manner that pools the resources of all participants to achieve a lower cost of borrowing (id.). Participants who may both lend and borrow from the Money Pool are divided into two groups, based on the priority to be accorded to each group's borrowing needs (Exhs. Company-1, at 5; NBK-1, at 4). Group 1 members are wholly-owned regulated electric subsidiaries of National Grid USA, and Group II members include New-England Hydro-Transmission Electric Company and New England Hydro-Transmission Corporation (Exhs. Company-1, at 12; NBK-3, at 1). Other subsidiaries of National Grid USA, as well as National Grid USA itself, may participate as lenders only (Exh. NBK-3, at 1). Under the Money Pool, the pool participants' daily cash surpluses will be pooled together (Exh. Company-1, at 4). National Grid Service will act as the Money Pool's administrator, and loan funds to eligible participants who need short-term funds (id.). Surplus funds in the Money Pool will be loaned to those eligible pool participants that have short-term borrowing needs (id.).

To the extent that surplus funds are inadequate to meet the borrowing needs of the pool participants, loans are first made to Group 1 Borrowers (id. at 5). Among borrowers within the same group, those borrowers paying the highest rate for short-term funds are given priority (id.). Any excess funds remaining after daily borrowing requirements have been met are invested in accordance with investment categories previously approved by the Department (id.; Exh. NBK-3, at 3).

The Companies stated that the cash operations of all National Grid USA subsidiary companies are centralized and the Money Pool is the mechanism that these subsidiary

companies use for cash management and control (id. at 11). In order to maintain an efficient, centralized operation, the Petitioners wish to expand the Money Pool to include Niagara (id.).² The Companies contend that a larger lending and borrowing Money Pool will benefit all participants (id.; Exh. DTE 1-4).

The revised terms of the money pool set forth that a borrower with a commercial paper credit rating or an investment grade long-term corporate credit rating will pay interest at a rate equal to the weighted monthly average of the rates on its outstanding commercial paper (Exh. NBK-2-A; Tr. at 5). The Companies claim there is a cost of \$10,000 to \$20,000 to obtain a commercial paper rating, and believe that a long-term corporate credit rating is evidence of the same level of investment quality (Tr. at 6).

The Companies stated that the Money Pool will provide pool participants with greater financing and a lower cost of borrowing that would otherwise be available to them (Exhs. Company-1, at 7-8; DTE 1-4; Tr. at 10). The Companies maintain that the savings in borrowing and administrative costs realized by pool participants for 2001 was \$200,806 (Exh. DTE 1-3).

The Companies seek Department approval to add all future National Grid USA subsidiaries as additional lenders to the Money Pool (Exh. Company-1, at 13). The Companies stated that a larger, more diversified pool provides additional assurance that money will be available to borrowers, with no additional risk to these borrowers from the increase in potential

² The Companies stated that National Grid USA's acquisition of Niagara closed on January 31, 2002 (Tr. at 6).

lenders to the pool (Exh. DTE 1-7; Tr. at 12). The Companies asserted that to the extent the existence of additional lenders may provide more money than may be needed on a given date, there is no increased risk to lending utilities because the surplus cash would be invested in highly-secure investment vehicles approved by the Department (id.). The Companies stated that it will inform the Department of any additional National Grid USA subsidiaries that become lenders to the Money Pool in the annual report to the Department (Exh. Company-1, at 14).

III. STANDARD OF REVIEW

Pursuant to G.L. c. 164, § 17A, a gas or electric company must obtain written Department approval in order to “loan its funds to, guarantee or endorse the indebtedness of, or invest its funds in the stock, bonds, certificates of participation or other securities of, any corporation, association or trust” The Department has indicated that such proposals must be “consistent with the public interest,” that is, a § 17A proposal will be approved if the public interest is at least as well served by approval of the proposal as by its denial. Bay State Gas Company, D.P.U. 91-165, at 7 (1992); see Boston Edison Company, D.P.U. 850 (1983).

The Department has stated that it will interpret the facts of each § 17A case on its own merits to make a determination that the proposal is consistent with the public interest. D.P.U. 91-165, at 7. The Department will base its determination on the totality of what can be achieved rather than a determination of any single gain that could be derived from the proposed transactions. Id.; see D.P.U. 850, at 7. The Department also found that the consistency standard best accommodates the Department’s interest in protecting the utility’s ratepayers from the adverse effects of unwarranted § 17A transactions and a utility’s interest in having flexibility

in a changing marketplace to meet long term objectives of its ratepayers and shareholders.

D.P.U. 91-165, at 7; Boston Edison Company, D.P.U. 97-17, at 6 (1997).

Thus, the Department's analysis must consider the overall anticipated effect on ratepayers of the potential harms and benefits of the proposal. D.P.U. 91-165, at 8. The effect on ratepayers may include consideration of a number of factors, including, but not limited to: the nature and complexity of the proposal; the relationship of the parties involved in the underlying transaction; the use of funds associated with the proposal; the risks and uncertainties associated with the proposal; the extent of regulatory oversight on the parties involved in the underlying transaction; and the existence of safeguards to ensure the financial stability of the utility. Id.

IV. ANALYSIS AND FINDINGS

The Department notes that the features of this Money Pool Agreement are similar to those found in previously approved financial arrangements of this nature. See Boston Gas Company/Colonial Gas Company/Essex Gas Company, D.T.E. 00-100 (2001); Massachusetts-American Water Company/The Salisbury Water Company, D.T.E. 00-43, at 6 (2000); Bay State Gas Company, D.P.U. 96-69, at 4; Massachusetts Electric Company, D.P.U. 91-133 (1992).

The Companies have presented credible evidence that the addition of Niagara to the Money Pool would produce benefits to Massachusetts ratepayers. As previously noted, Niagara would participate in the Money Pool as both a borrower and a lender

(Exh. Company-1, at 10; Tr. at 8). As a borrower, Niagara would provide interest earnings to those Massachusetts utilities that invested their short-term cash surpluses into the Money Pool (Exh. Company-1, at 6; DTE 1-6). As a lender, Niagara would provide the pool with an additional source of funds, thereby reducing the need for outside financing (Exh. Company-1, at 7; DTE 1-4; Tr. at 10). Moreover, the Companies have presented credible evidence that Niagara's participation in the Money Pool would ensure continued efficient, centralized operation of the cash needs and cash surpluses of the pool participants (Exhs. Company-1, at 11; DTE 1-4).

For the reasons stated above, the Department finds that the public interest is at least as well served by approval of the Companies' proposal as by its denial. Therefore, the Department finds that the proposals to add Niagara to the Money Pool Agreement and to change the terms of the Money Pool to clarify certain terms are consistent with the public interest. In granting this approval, the Department directs the Companies to file a report after one year which clearly summarizes the first year of operation under the revised Money Pool. See D.P.U. 96-69, at 4; D.P.U. 91-133, at 4; New England Power Company/Massachusetts Electric Company, D.P.U. 589, at 4-5 (1981).

However, the Department is concerned that the Companies' proposal to add future National Grid USA subsidiaries as lenders only, without Department explicit knowledge and approval, may not be in the public interest. The Companies seek Department approval to add all National Grid USA subsidiaries, both present and future, to the Money Pool as lenders only (Exh. Company-1, at 13). This proposal conflicts with our previous directive that requires

Department approval of any amendment or any other change in the Money Pool or to the terms of the Money Pool. Massachusetts Electric Company, D.P.U. 91-133 (1992). The Department will not cast aside an established safeguard absent a compelling reason (Id. at 5). The condition requiring Department approval for changes to the Money Pool, as set forth in each prior Order affecting the Money Pool, was designed to ensure that the Department retain control over certain aspects of the Money Pool, such as the identity of its participants, which may affect the public interest (id.). The Companies offer of after the fact notification fails to address the issue of whether a subsidiary of National Grid USA should be allowed to participate in the Money Pool. Therefore, the Department finds that the proposed amendment to allow future subsidiaries of National Grid USA to participant as lenders only in the Money Pool is not in the public interest.

The Department has promulgated final rules establishing Standards of Conduct for local distribution companies and affiliates. Standards of Conduct Rulemaking, D.P.U. 97-96 (1998); 220 C.M.R. § 12.00 et. seq. The Department recognizes that National Grid USA's participating subsidiaries are primarily regulated utilities. However, should a party to the Money Pool initiate efforts to participate in unregulated activities in the future, or if a new participant seeks to join the Money Pool, appropriate changes to the Money Pool may be necessary and may require Department approval.

V. ORDER

Accordingly, after due notice, hearing and consideration, it is

ORDERED: That the Department hereby approves, in accordance with the provisions of G.L. c. 164, § 17A, the participation of Niagara Mohawk Power Corporation in the National Grid USA Money Pool agreement; and it is

FURTHER ORDERED: That the Department hereby approves National Grid USA's proposal to change certain terms of the Money Pool agreement; and it is

FURTHER ORDERED: That the proposed amendment permitting all current and future subsidiaries of National Grid USA to participate in the Money Pool as lenders only, is hereby DENIED; and it is

FURTHER ORDERED: That National Grid USA shall submit a filing at the end of year one which clearly summarizes the first year of operation in order for the Department to determine that the National Grid USA Money Pool agreement is still consistent with the public interest; and it is

FURTHER ORDERED: That National Grid USA shall comply with all other orders and directives contained herein.

By Order of the Department,

James Connelly, Chairman

W. Robert Keating, Commissioner

Paul B. Vasington, Commissioner

Eugene J. Sullivan, Jr., Commissioner

Deirdre K. Manning, Commissioner

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such

further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. (Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).